

NEW JERSEY DEPARTMENT OF
COMMUNITY AFFAIRS



A Landlord's Guide to the **Section 8** Housing Program



Richard J. Codey
Acting Governor



Susan Bass Levin
Commissioner

Division of Housing and Community Resources
101 South Broad Street
P.O. Box 051
Trenton, New Jersey 08625 – 0051
www.nj.gov/dca/dhcr

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Program Representative:

Field Office Address:

Telephone Number:

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Acting Governor's and Commissioner's Greeting

On behalf of the Department of Community Affairs (DCA), we would like to welcome you to the Section 8 Housing Program. The guide is given to you as part of your initial program briefing and contains valuable information that will help you better understand the Section 8 Program.

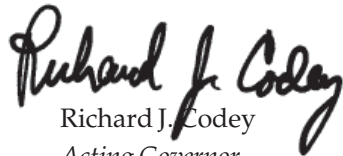
The Section 8 Housing Choice Voucher Program, administered by DCA's Division of Housing and Community Resources, is funded by the United States Department of Housing and Urban Development (HUD). The goal of this program is to provide affordable housing in the private rental market to very low-income households. One of our priorities has always been to ensure that every New Jersey citizen is entitled to live in a descent, safe and secure place, and we believe this program helps make that possible.

Under the Section 8 Program, eligible households pay approximately 30 percent of their adjusted monthly income toward their monthly rent and utility costs. The program then pays the balance of the rent directly to the rental property's owners.

For the Section 8 Program to be successful, a good working relationship is vital between all parties involved. One of our goals for this guide is to provide information to help you be successful as a Section 8 landlord and as a landlord in general.

We hope you use this guide as an informational resource about our Section 8 Program and encourage those who are thinking about becoming part of the program to do so. We would also like to thank those who are currently participating in this program-by participating in this program you are helping us make New Jersey a better place to live!

With regards,


Richard J. Codey
Acting Governor


Susan Bass Levin
Commissioner

The Section 8 Housing Choice Voucher Program

The voucher program provides housing assistance so eligible households can rent privately owned housing. When a household becomes eligible for Section 8 Tenant-Based Assistance, they are issued a Housing Choice Voucher. This Housing Choice Voucher verifies the household is eligible, and money is being set aside to assist them with paying their rent. The assistance is conditional on the client finding suitable housing, which meets all of the requirements set forth in the federal regulations.

Housing must meet the minimum Housing Quality Standards (H.Q.S.). In addition the rent must be “reasonable,” as defined by HUD.

The local public housing agency (PHA) must certify reasonable rent, or Rent Reasonableness, for each subsidized dwelling unit. This means the rent cannot be more for the subsidized unit than it would be for an unsubsidized unit comparable in size, amenities and geographic location.

A written lease must exist between the tenant and landlord. A Housing Assistance Payment (HAP) Contract must also exist between the landlord and PHA administering the subsidy. When all of these conditions have been met, the landlord will receive a subsidy payment for the tenant, directly from the PHA.

The Housing Choice Voucher Program Includes The Following:

- **Housing Subsidy**

The PHA calculates a rent subsidy, which is based on the household’s adjusted monthly household income. The tenant then pays the balance of the rent directly to the landlord.

- **Rent Limits**

The Housing Choice Voucher Program has no limitation for rents; however, HUD requires that each unit receiving a subsidy be certified as Rent Reasonable. This is done by comparing the housing unit selected by the tenant, with the rents for three other comparable units.

- **Payment Standards**

The program determines the payment standard, which is used to calculate the household’s subsidy in the Housing Choice Voucher Program. The Payment Standard may not be less than 90 percent of the Fair Market Rent, or more than 110 percent of the

Fair Market Rent. HUD sets the Fair Market Rent based on the Metropolitan Statistical Area the dwelling unit is in.

- **Household Share:**

Participants may select housing that rents for more than the Payment Standard and thus may pay more than 30 percent of adjusted monthly income for rent and utilities. However, when initially moving into a unit, a family may not pay more than 40 percent of their adjusted monthly income toward their portion of the rent and utilities.

- **Rent Increases**

Increases are allowed after a written request by the landlord, and in accordance with the HAP contract and State law. Rent increases are not limited, but are subject to a “rent reasonableness” test. In areas where with rent control, the test will be the deciding factor concerning rent increases.

Choosing a Tenant

A tenant, who has been issued a Housing Choice Voucher, generally has a maximum of 120 days to find suitable housing. Usually, the tenant is responsible to find housing; however, the field office may assist tenants with available rental lists they keep on file. HUD requires the Section 8 Program to help find suitable housing for people with disabilities.

Free Listings

Landlords in the Section 8 program can submit listings of available rentals. If you wish to list a unit, please contact your local field office. This service may help you rent properties. In addition to the Section 8 participants, these listings are often shared with the general public. This service has no charge.

Once a Housing Choice Voucher holder has indicated that they wish to rent your property, you must decide whether or not you want to rent to this tenant. We strongly advise you do a thorough background check on all potential tenants before you decide whether or not you will rent to them.

The background check should include an application requiring the tenant to provide information such as their name, social security number, past rental history including prior landlords, information on employment, income, savings, and personal and credit references.

Do A Home Visit

DCA recommends you take the time to do a home visit of the potential tenant's current unit. Chances are the way that they maintain their current rental, is the same way they will treat your property.

Remember, **the law prohibits discrimination.** You must use the same standards for all applicants and apply them in the same manner.

You should also consider using one of the many services available to landlords that will give you the information needed to make an informed decision about renting to a potential tenant. For example, services will tell you whether or not a tenant has ever been evicted, has a criminal record, or has a bad credit history. Many are even available on the Internet. Remember, when contacting previous landlords, you should always contact the tenant's previous landlord because the current landlord may want the tenant to move out.

The Franklin Tower Decision of The New Jersey Supreme Court Prohibits Landlords From Refusing to Rent to a Tenant Because the Tenant is a Participant of The Section 8 Program.

The book, *Tenant's Rights in New Jersey*, published by Legal Services of New Jersey states the following:

"New Jersey law makes it illegal to refuse to rent to anyone solely because they will pay their rent with rental assistance or welfare. For example, it is illegal for a landlord to refuse to rent to a person because the person receives Section 8 assistance, (N.J.S.A. 2A:42-100). This applies to a tenant who obtains Section 8 while already a tenant, and to those who are seeking to rent from a landlord for the first time, (Franklin Tower-One, L.L.C. v. N.M., 157 N.J. 602-1999)."

The Leasing Process

The Lease

The landlord and tenant must have a written lease. It should include all of the details and responsibilities concerning the rental of the property. It can be any lease agreement of their choosing; however, it **cannot** contain any clauses that would be considered illegal under New Jersey State law. The lease should be completed but not signed until the field office has had a chance to review it. The lease must be submitted with the **Request for Approval of the Tenancy Form**.

Request For Approval of the Tenancy Form

This is a required HUD form that will be supplied by the field office. (A sample form is included in this booklet's Appendix.) The form requests required information about the rental for the PHA to make an initial determination of whether the unit is eligible. The tenant and landlord must sign and date this form before it is submitted. Submission of this form will initiate a Housing Quality Standards inspection of the unit.

Housing Quality Standards

When you submit the lease and the Request for Approval of the Tenancy, a Housing Quality Standards (H.Q.S.) Inspection the field office will schedule an inspection. This inspection is required to make sure the unit meets the minimum housing quality standards, set by HUD and the PHA, before the subsidy can begin. If any fail items are discovered during the inspection, you will be notified in writing what they are, and you will be given a deadline to make the repairs. The subsidy won't begin until the unit meets **all** of the H.Q.S. requirements, and no retroactive payments may be made for the time period before the unit passed inspection.

Once the unit has passed the H.Q.S. inspection, the final steps will be the signing of the lease and the Housing Assistance Payments Contract. In addition, the landlord must at this time provide written documentation that verifies that they legally own the property, or that they have the legal right to rent it.

After all of the case documents have been reviewed for submission to our agency's payments section in Trenton, you will receive a letter from the Section 8 field office. The letter will estimate what the tenant will pay and what the amount of the subsidy will be.

Landlord/Tenant Relations After The Tenant Is Leased

After you have rented your housing unit to the tenant, whether they are receiving Section 8 Rental Assistance or not, you have entered a new phase of your relationship. Now, both parties must live up to all of the promises written in the lease. If you have chosen a tenant carefully, this shouldn't be difficult. However, you can do certain things that should prevent many of the

problems that may occur in the normal landlord/tenant relationship.

Rent / Security

When you rent a property, you are running a business. If you are not being paid when you are supposed to be, your business is going to suffer for it. If a tenant cannot pay the rent on time, then you need to start looking at your options for

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Landlord/Tenant Relations After The Tenant Is Leased (cont'd)

replacing that tenant. If you allow this kind of situation to continue, then you have only yourself to blame for the loss of income that you will ultimately incur.

Likewise, never let a tenant move in until you have been paid not only for the rent, but also for the security deposit. Once the tenant is occupying your unit, the only way you can legally remove them is through an eviction.

Depending on your tenant's financial situation and knowing they will be receiving a rent subsidy, you may wish to allow the tenant to pay off the security deposit over a period of time. If you decided to do this, we suggest you make it a part of the lease, so if they fail to make the payments, you can begin an eviction action based on a breach of a reasonable covenant or agreement in a lease.

Note: The covenant or agreement must be contained in the original lease in order for it to be enforced.

Painting/Improvements

Don't let the tenants paint the property. You should emphasize this point from the very beginning and include it in the lease. If the unit needs painting, the best way to handle it would be to do it yourself or hire a professional. You will find this much more cost effective in the long run.

Let The Tenant Know What You Don't Want

Make sure one condition of the lease is that the tenant agrees not to alter, redecorate or make repairs to the dwelling without first obtaining the landlord's specific permission in writing, except as provided by law.

Repairs / Maintenance

Never ignore a tenant's request for repairs that involve the habitability of the property. Always respond to them promptly and ensure they are completed yourself. Failure to do so may allow the tenants to make the repairs themselves and deduct the cost from the rent.

Never require the tenant to take on more maintenance than they can handle (lawn mowing, snow removal, watering the lawn, etc.). Again, the best way to assure things are correctly done when they are supposed to be is to pay a professional or do them yourself.

Notices

We also suggest your lease includes that any notices between the tenant and landlord must be in writing. This will document all communications between parties and will be valuable if either party needs proof that notice was given, or that some action was taken. You also should give the tenant a signed receipt for all rent and security deposit money that they have paid. In addition, you should make the tenant sign for the keys at the official move in, and you should give the tenant a signed receipt when they return the keys. We suggest you give the tenant a written list of instructions showing exactly what is expected

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Repairs / Maintenance (cont'd)

both when they move in and move out. The tenant also signs for this list.

These suggestions may seem time consuming, but if you ever need to prove that you did something for court, you will be glad that you took these steps.

Inspections

Although DCA's field office will do an inspection of the unit at least once a year, we highly suggest the landlord visit the unit on a regular basis. Small problems that may be

evident can turn into bigger problems. By regular visits you can correct these problems so the tenants don't. You can perform visits in a number of ways, such as personally collecting the rent on an agreed upon day, by writing into the lease that you will do a walk through inspection on a quarterly basis, by doing regularly scheduled maintenance on the unit, or some other valid reason. Just be sure the tenant is given prior notice.

Sale Of The Property

Entering into a Housing Assistance Payments Contract doesn't prohibit a landlord from selling the property at any time. However, landlords do have a responsibility to notify the PHA of the sale ahead of time. It is best if you notify us as soon as possible so that the contract can be transferred to the new owner.

When the property sale is certain, the owner must contact the local field office. Be prepared to give us the name, address, phone number and if possible, the tax identification number of the proposed buyer. The new owner should also contact the field office to arrange for a Section 8 landlord briefing.

The field office will prepare the "Request for Transfer of the Housing Assistance Payments Contract" and give it to the current owner to have it executed at the settlement of the sale. Once that form, a signed W-9 tax form and verification that the property has been transferred is returned to the field office, it will be forwarded to the central office payments department. They will make the necessary changes for

the issuance of the subsidy check to the new owner.

We hope the previous suggestions help you manage your property in an efficient and economical manner and allow you to address any unpleasant situations before they become major problems.

The Problem Tenant

The best way to avoid having to evict bad tenants is by not renting to them in the first place.

The best remedy for eviction is to properly screen tenants prior to the signing of the lease agreement.

Most landlords get frustrated in this area. You did everything you could to rent to a good tenant, but despite all of your investigation and preparatory work you still ended up with a problem tenant. When this happens, landlords often get defensive, combative and angry. However, this is the time when you must stay calm and use your knowledge to combat the problem. You need to know what your options are under the law, which will allow you to solve your problem and evict the problem tenant.

In these situations, landlords should consult a publication DCA offers called, *TRUTH IN RENTING*, which is a guide to the rights and responsibilities of residential tenants and landlords in New Jersey. These laws govern the rental of residential properties in the State of New Jersey. By carefully reading the guide, a landlord can find the solution to their situation. Contrary to popular belief, the laws are not always weighted in favor of the tenants.

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Evictions

When a serious enough problem occurs that you think you might want to evict a tenant, you must remember the landlord is the one that has to start the eviction process to fix the situation.

The PHA provides a subsidy on behalf of the tenant, and is not responsible for the behavior of the tenant. They did not choose or rent to the tenant, and they have no legal authority to take any action regarding the termination of the lease or physical removal of the tenant. However, the program will work with the landlord to persuade the tenant to live up to the terms of the signed lease. **The Section 8 Program has no authority or ability to remove the tenant.**

If you have exhausted all other options, and still feel that you need to remove the tenant, your last resort will be an eviction. In the State of New Jersey, an eviction is the only legal remedy you have to remove a tenant, that has failed to live up to the terms of the lease and who refuses to leave voluntarily.

Self help evictions, or an eviction where you forcefully and physically remove a tenant from your property, are illegal in this state and may lead to the tenant taking legal action against you.

Never, ever resort to any form of self-help eviction.

The only legal way to evict someone is through a court ordered eviction. In some cases, a landlord is required to give a tenant a preliminary written notice (written notice to cease) to stop the behavior that is causing you to bring the eviction. Only when a tenant continues such acts or behavior (after the first notice) does a landlord have cause for eviction. The next step is for the landlord to get an issuance of a summons to come to court. Your county clerks office issues the summons. It sets a court date for both parties to go to court and tell their side of the story to a

judge. If the judge rules in the landlords favor, a judgment for possession is issued.

At this point, if the tenant voluntarily leaves, then the landlord has regained possession of the unit. However, if the tenant ignores the judgment, your next step is to have the county sheriff issue a **Warrant of Removal**.

The **Warrant of Removal** is placed on the door of the property and gives a date the tenant has to leave or risk being forcibly removed by the sheriff. If this is the case, the landlord doesn't regain possession of the unit until the sheriff executes the warrant of removal and turns the property over to the owner. During this stage of the process, the landlord has to be extremely careful. They must follow the law exactly or the landlord could face legal action from the tenant.

Landlords are advised to send copies of all notices and summonses to the field office in their county so the field office is aware of the situation. This is important because the PHA is paying part of the rent, and there have been cases where the eviction has been thrown out of court because the field office wasn't notified. This happens most frequently when the tenant has retained an attorney.

When this happens, you have to re-file the eviction, costing you more time and money. Therefore, it is important that the Section 8 field office receives copies of any correspondence between you and the tenant.

Landlord Resource Guide

Following is a list of related offices and programs located at DCA.

For further information please contact the office directly.

- **Landlord / Tenant Information**

Provides information on the established rights and responsibilities of residential landlords and tenants as required by law and on certain relocation related functions. The office also supplies detailed information on rules and regulations pertaining to residential landlords and tenants. The office prepares and distributes the Truth-in-Renting booklet as a guide to responsibilities of residential landlords and tenants. An automated voice mail system provides information on topics related to landlord-tenant issues.

Contact: (609) 292-4174

- **Homelessness Prevention**

Assists low- and moderate-income tenants, and homeowners who are in imminent danger of eviction or foreclosure due to temporary financial problems beyond their control (Public Law 1984, c. 180).

Contact: (609) 633-6204

- **Weatherization Assistance Low-Income Home Energy Assistance**

Assists elderly, handicapped and low-income persons in weatherizing their homes, improving heating system efficiency and conserving energy.

Contact: (609) 292-6140

- **Lead Hazard Abatement Program**

Enforces Lead Hazard Abatement rules in all buildings and structures undergoing lead hazard abatement. The unit licenses lead evaluation and abatement contractors, conducts monitoring inspections and supports local building departments in the enforcement of lead hazard abatement rules.

Contact: (609) 984-7815

- **Division of Housing and Community Resources**

Information on all of the programs offered by the division as well as contact information for staff members.

www.nj.gov/dca/dhcr/

The Regional Opportunity Counseling Program

In Partnership With Designated Section 8 Offices

Wanted:

- Available apartments
- New and existing landlords
- Units in low poverty areas
- Single family homes
- Multi-family units
- One or more bedrooms

**Apartments Wanted To Rent anywhere in
New Jersey or out of State**

We have Section 8 Tenants who have completed our “Healthier Home” workshop and receive counseling on how to maintain their apartment

**We also have workshops designed for
Landlords**

(See the following pages for an example of some of the information given out at these sessions)

For more information:

Phone (973) 266-0988 Fax (973) 414-4479

Regional Opportunity Counseling Program Landlord/Tenant Preparation Checklist for Move-In and Ongoing Maintenance of Rental Unit

1. Paint the apartment in semi gloss paint, either white or off white.
2. Give the tenant a schedule for garbage and recycling pick up days.
3. Give the tenant a copy of any instructions for the care and maintenance of appliances, tile floors or anything else that may require special care.
4. Provide shades or blinds for all apartments in order to keep the view from the outside uniform.
5. Change door locks or cylinders in locks anytime you change tenants.
6. If the tenant is paying for the heat, provide them with written instructions on the operation and care of the heating unit.
7. Install a locking mailbox and clearly label the mailbox with the tenant’s name and apartment number.
8. Have the carpets thoroughly cleaned and provide the tenant with written instructions on how to care for them.
9. Exterminate the unit on a regular basis or at the first sign of any kind of infestation.
10. Patch any holes, no matter how small, in order to discourage mice from entering the apartment.
11. If utility companies need to have access to the basement, provide information to the tenant about where they can get the key, or if possible leave a key with the tenant.
12. Give the tenant a set of written instructions on how to contact you in an emergency, also include the numbers of local police, fire and ambulance.
13. Show the client where the shut off valves for the water supply are, and instruct them how to turn off the water under sinks, etc. when there is an emergency.
14. Make sure enough electrical outlets are provided in the unit so the tenant is not forced to use extension cords.
15. Let the tenant know where they can park their car.
16. Give the tenant a welcome kit consisting of the type of cleaning products you would like them using in your unit.
17. Make sure that the heating and hot water heating units are cleaned and serviced yearly.
18. Simple but effective landscaping will not only improve the appearance of the unit, but will allow the tenant to have pride in the outward appearance of their home.

Appendix

Welcome to the Section 8 Program
Section 8 Housing Quality Standards
Sample Request for Tenancy Approval Form
Directory of Field Offices

